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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,958	02/21/2002	Albert Fazio	42390.P3187CR	1601

7590 12/13/2002
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EXAMINER
NGUYEN, VIET Q

ART UNIT	PAPER NUMBER
2818	

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/080,958	Applicant(s)	FAZIO, ALBERT
Examiner	Viet Q Nguyen	Art Unit	2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Reissue application filed on 2/21/02.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-16 is/are allowed.
- 6) Claim(s) 17 and 18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

- 4) Interview Summary (PTO-413) Paper No(s). _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other:

DETAILED ACTION***Reissue Applications***

1. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414 requirements.

For example, the examiner notes that both original claims 17 and 18 have ***broader intent*** and they claim for “a plurality of voltages” to be used in a periphery circuit, which could have in fact claimed ***more than the patentee had a right to claims*** as compared to other claims (e.g., see claims ***8, 14, 16*** which ***are based upon the particular operating voltages (first, second, and third voltages)***). Thus, the present proposed amendment to call for adding the limitation of “first, second and third voltages”, which had been claimed before in other claims (8, 14, 16), is now appropriate and just to narrow the scope of the original issued claims 17 and 18 without any deceptive intent or broader scope.

2. The reissue oath/declaration filed with this application is defective because the error that is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

For example, the applicant’s reasons that original issued “***claims 17 and 18 fail to cover certain embodiments of the invention with enough particularly to overcome the prior art***” is ***not*** an appropriate and allowed statement to meet

the specific requirement of rule section 1.175(a), MPEP 1414. This is because this statement **should point out the only identified errors arose in claims 17 and 18** sought to be reissued, and not otherwise. Thus, it seems that the now proposed amendment is to only narrow the scope of both claims 17 and 18 based on these errors (by adding particular voltage uses), but not to add certain features (without any identified errors) to cover any certain inventions and/or additional embodiments that have or not have been claimed before.

3. Claims 17 and 18 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above (see paragraphs 1, 2 above) in this Office action.

4. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received **before** this reissue application can be allowed. See 37 CFR 1.178.

The claims 17-18, as amended, and claims 1-16 are now allowable over prior arts of record.

5. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

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Claims 17 and 18 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above (paragraph 1 and 2). A supplemental reissue oath/declaration is required to specifically state the prior errors in claims 17 and 18.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Q Nguyen whose telephone number is (703) 308-4897.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

V. Nguyen
Viet Q Nguyen
Primary Examiner
Art Unit 2818

V. Nguyen
December 11, 2002